HON'BLE SHRI G.S.SINGHVI, THE CHIEF JUSTICE
AND
HON'BLE SHRI JUSTICE C.V. NAGARJUNA REDDY

WRIT PETITION No.3314 OF 2007

Between:

Mahabubnagar Anti Toddy Adulteration Association (MATAA), having its registered office at H.No.HIG.31, Housing Board Colony, Jadcherla, Mahabubnagar District, G. Shanker Goud, S/o. Narayana Rao, aged 43 years, R/o. D.No.3-53, Seshadrinagar, Mahaboobnagar

…Petitioner

AND

Government of Andhra Pradesh rep., by its Principal Secretary, Revenue (Excise), Hyderanad and two others

...Respondents

: O R D E R :

Counsel for the petitioner : Dr. P.B. Vijaya Kumar

Counsel for respondent Nos. 1 and 2 : Government Pleader for Prohibition and Excise

Counsel for respondent No.3 : Shri M. Damodar Reddy

4th April, 2007

Per G.S.SINGHVI, CJ

In this petition filed as a piece of public interest litigation, Mahabubnagar Anti Toddy Adulteration Association has prayed for quashing order dated 27-7-2006 vide which the State Government stayed the suspension of the licence of respondent No.4 by Prohibition and Excise Superintendent, Mahabubnagar on the allegation of adulteration of toddy by its members.

On 23-3-2007, the Court had, after hearing learned counsel for the petitioner, passed the following order:

> "Dr. P.B. Vijay Kumar for the petitioner.
>
> Government Pleader for Prohibition and Excise for the respondents.
>
> Heard learned counsel for the petitioner and perused the record.
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> Notice to the respondents.
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> Learned Government Pleader for Prohibition and Excise accepts notice for respondent Nos. 1 and 2.
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> Notice to respondent No.3 be issued for 26-3-2007.
>
> Personal service is permitted.
>
> Keeping in view the extraordinary and unusual nature of order dated 7-7-2007 passed by Principal Secretary to Government, Revenue (Excise Department), we direct the officer concerned to file his affidavit on 26-3-2007 explaining his position qua the following points:
>
> 1. Why he entertained the revision petition preferred by respondent No.3 after almost 13 months of the passing of order by Prohibition and Excise Superintendent, Mahabubnagar for cancellation of licence on account of adulteration of toddy by the licensee and that too by ignoring the fact that respondent No.3 could have availed of appeal?

2. Why he passed an unusual order without any time limit?
3. Why the revision petition has not been disposed of so far?

Put up on 28-3-2007.

On the next date of hearing, record of the revision petition preferred by respondent No.3 shall also be kept ready for perusal of the Court."

On the next date of hearing i.e., 28-3-2007, the Court passed the following order:

"Dr. P.B. Vijaya Kumar for the petitioner.

Shri A. Satya Prasad, Special Government Pleader.

Shri M. Damodar Reddy for respondent No.3.

Heard learned counsel for the parties.

We have gone through the affidavits of respondent No.3 and Shri S.V. Prasad, Principal Secretary.

For the time being, we refrain from commenting on the merits of the affidavit of Shri S.V. Prasad and deem it proper to adjourn the case for seven days so as to enable him to file a more comprehensive and better affidavit. However, keeping in view the manner in which the order of cancellation of licence was stayed after a gap of more than eight months and that too in the face of the finding that respondent No.3 and its members were selling adulterated toddy, we direct respondent No.2 and other functionaries of the Prohibition & Excise Department not to entertain the application, if any made by respondent No.3 society and its members in its name or in other name, colour or disguise for grant of licence. This order would operate till the next date, which is fixed as 04.04.2007."

Shri A. Satya Prasad, learned Special Government Pleader invited our attention to additional affidavit dated 31-3-2007 filed by Shri S.V. Prasad, Principal Secretary to the Government, Revenue (Excise Department), Government of Andhra Pradesh. He also produced typed copy of order dated 3-4-2007 passed by the State Government, whereby the

revision petition filed by respondent No.3 was dismissed.

We have gone through the affidavits of Shri S.V. Prasad and appreciate the predicament in which the officer found himself while dealing with the revision petition filed by respondent No.3. However, we do not consider it necessary to delve deep into the issue raised by the petitioner and dispose of the writ petition as infructuous because order dated 27-7-2006, which is subject matter of challenge in the writ petition, has merged in the final order dated 3-4-2007.

With the above observation, the writ petition is disposed of as infructuous. However, liberty is given to respondent No.3 to avail appropriate legal remedy against order dated 3-4-2007.

As a sequel to disposal of the writ petition, WPMP No.4224 of 2007 filed by the petitioner for interim relief is also disposed of as infructuous.

G.S. SINGHVI, C.J.

C.V. NAGARJUNA REDDY, J.

4th April, 2007
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